

## ALTERNATIVE DISPUTE RESOLUTION (ADR)

### Information Sheet

***The court requires that all counsel provide a copy of this Information Sheet to their clients. On our website ([www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov)) you can learn more about ADR and the litigation process by going to the ADR link in the banner on the website's home page. There you will find additional links to important information and forms related to alternative dispute resolution (ADR) and case management that can be copied or downloaded for your use.***

Recognizing that many civil disputes can be resolved without the time and expense of traditional civil litigation, the Yolo County Superior Court strongly encourages parties in civil cases to explore and pursue the use of ADR.

### **What is Alternative Dispute Resolution?**

Alternative Dispute Resolution (ADR) is the general term applied to a wide variety of dispute resolution processes which are alternatives to lawsuits. Types of ADR processes include arbitration, mediation, neutral evaluation, mini-trials, settlement conferences, private judging, negotiation, and hybrids of these processes. All ADR processes offer a partial or complete alternative to traditional court litigation for resolving disputes. At the present time, the Yolo County Superior Court offers mediation and arbitration. In the future, the court plans to initiate an early settlement conference program.

### **What are the advantages of using ADR?**

ADR, particularly mediation, can have a number of advantages over traditional court litigation.

- **ADR can save time.** Even in a complex case, a dispute can be resolved through ADR in a matter of months or weeks, while a lawsuit can take years.
- **ADR can save money.** By producing earlier settlements, ADR can save parties and courts money that might otherwise be spent on litigation costs (attorneys fees and court expenses.)
- **ADR provides more participation.** Parties have more opportunity with ADR to express their own interests and concerns, while litigation focuses exclusively on the parties' legal rights and responsibilities.
- **ADR provides more control and flexibility.** Parties can choose the ADR process most appropriate for their particular situation and that will best serve their particular needs.
- **ADR can reduce stress and provide greater satisfaction.** ADR encourages cooperation and communication, while discouraging the adversarial atmosphere found in litigation. Surveys of disputants who have gone through ADR have found

that satisfaction with ADR is generally high, especially among those with extensive ADR experience.

## **Arbitration and Mediation**

The Yolo County Superior Court currently offers pre-screened panelists with experience and training in each of the following areas.

1. **Arbitration.** An arbitrator hears evidence presented by the parties, makes legal rulings, determines facts and makes an arbitration award. Arbitration awards may be entered as judgments in accordance with the agreement of the parties or, where there is no agreement, in accordance with California statutes. Arbitrations can be binding or non-binding, as agreed by the parties in writing.
2. **Mediation.** Mediation is a voluntary, informal, confidential process in which the mediator, a neutral third party, facilitates settlement negotiations. The mediator improves communication by and among the parties, helps parties clarify facts, identify legal issues, explore options and arrive at a mutually acceptable resolution of the dispute.
3. **Judicial Arbitration.** Some cases will be ordered to Judicial Arbitration if they come within the provisions of Code of Civil Procedure section 1141.11 and California Rules of Court, 3.811 and 3.812. Local Rule 13 and Appendix 4 govern this ADR procedure.

Litigants are encouraged to use an ADR process as early in the case as circumstances permit. All appropriate cases will be reviewed for referral to ADR at the Case Management Conference.

## **ADR Procedures for the Yolo County Superior Court**

1. Upon filing a Complaint, the Plaintiff will receive this information sheet from the Superior Court Clerk. **Plaintiff is required to include the ADR Information Sheet when he or she serves the Complaint on the Defendant.**
2. All parties to the dispute may voluntarily agree to take the matter to an ADR process. Stipulation Forms for this procedure are provided on-line at the court's website. (At the website, click on the "ADR" link and then on "Forms".) Parties choose and contact their own ADR provider. A list of providers is available on-line at the Panelist link.
3. An initial Case Management Conference ("CMC") will normally be scheduled within 120 days of the filing of the Complaint. An original and copy of the Case Management Conference Statement (see Forms link) must be completed and provided to the court clerk no later than 15 days prior to the scheduled conference. The CMC is governed by Local Rule 12 and the policies in Appendix 3, with which all parties are expected to comply.

4. The Yolo County Superior Court Case Management Judge will strongly encourage all parties and their counsel to consider and utilize an ADR process that is appropriate to the case.
5. If the parties agree to use ADR *before* the CMC and they file the form Order to Continue Case Management Conference and Stipulation to Attend ADR (see the Forms link) the scheduled CMC will be vacated to allow for the ADR process to conclude within 90 days. In these cases (other than judicial arbitration), the CMC will be continued for case management/status review 100 days after the original CMC date. If the case is resolved through ADR, the status review date may be vacated if the court receives a Notice of Settlement, dismissal or judgment.
6. If the parties voluntarily agree to ADR at the CMC, the parties will be required to download, sign and file the Form Stipulation and Order to ADR.
7. At the CMC the court will review all scheduled cases for their suitability for referral to ADR. Please review the CMC links to know the subjects and procedures at the CMC. Attendance in person or by CourtCall at the CMC is mandatory.
8. **The fees for ADR are the responsibility of the parties.**
9. Local Court Rules require your cooperation in evaluating the ADR program and the court will expect the Client and Attorney Evaluation Forms to be completed and submitted **within 10 days of concluding the process.**

#### **Information:**

For a description of the ADR programs, CMC policies and for CMC and ADR forms go to the links on the court's web site: [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov)

You may also use the **Contact Us** link on the web site.

## CASE MANAGEMENT CONFERENCE POLICIES

**Introductory note.** *Case management procedures and the case management conference (CMC) are used by the court to expedite the movement of most civil cases through to an early resolution or trial. Counsel are expected to be thoroughly familiar with Local Rules 12 and 13 and the court's policies set out in Appendices 3 and 4 to the rules.*

### **CMC Policies.**

A case management conference (CMC) will be set by the clerk at the time the complaint is filed, ordinarily 120 days after the filing. All cases, limited and unlimited, are required to participate in a CMC. **Limited collection cases** (a new designation) have a specially designed management program described in the Notice of Case Management Conference provided by the Clerk at the time the case is filed. (Uninsured motorist cases are governed by Local Rule 12.3 and are not discussed here.)

The Case Management Statement must be **filed 15 days prior** to the scheduled CMC and should fully address all of the issues set forth in the [Judicial Council form CM 110](#). Timely and complete Statements will facilitate the CMC and benefits the parties, counsel and the court. A failure to file a CMC Statement, or late filing, inconveniences the court and will subject the party to the Order to Show Cause included in the Notice of Case Management Conference and will be heard at the same time.

In appropriate cases and for the convenience of the court and the parties, the court may issue a CMC Order Without Appearance. (CRC 3.722(d).)

Attendance at the CMC is required, personally or telephonically. See, [Using CourtCall](#) (on the court's website) to appear by phone. A trial date may be set at the first CMC. Trial counsel and back up trial counsel must be specified at the CMC. (If such counsel is not identified, relief from the scheduled trial date may not be based on the ground that counsel is engaged elsewhere.)

Every case management statement will be reviewed by the CMC judge prior to the initial CMC for referral to an appropriate form of ADR. The parties are encouraged to elect a form of alternative dispute resolution (ADR) prior to the CMC. (Please see the programs described in the Alternative Dispute Resolution link on the court's website for more information.)

The CMC judge will deem the case at-issue at the time of the CMC absent a showing of contrary circumstances.

At the CMC, you may expect the CMC judge to make appropriate pre-trial orders on any of the following matters (CRC 3.715.):

- An order identifying the case as one which may be amenable to early settlement or other alternative disposition technique;

- An order referring the case to arbitration, mediation or other dispute resolution process, or a referral to the ADR Administrator for mandatory dispute resolution education.
- An order assigning a trial date. (Counsel are required to be prepared to select a trial date at the CMC.)
- An order transferring the case to the limited jurisdiction of the Superior Court;
- An order identifying the case as one which may be protracted and determining what special administrative and judicial attention may be appropriate, including special assignment, appointment of referee or special master, and the like;
- An order of discovery; including but not limited to establishing a discovery plan or schedule, assignment to a discovery referee, and/or establishing a discovery cut-off date;
- An order scheduling the exchange of expert witness information;
- An order scheduling a subsequent CMC; and
- Such other orders to achieve the interests of justice and the timely disposition of the case.

Orders to ADR are intended to implement the ADR process which began with the filing of the complaint. When cases are filed, counsel are advised of the ADR processes in educational/procedural materials delivered by the court clerk. These must also be served on the defendant. The goal is to move as many cases to judicial arbitration or voluntary ADR as possible prior to or at the CMC and to have the cases resolved within the requirements of the Trial Delay Reduction Act, Government Code section 68607 and CRC 3.714(b). (See, [Alternative Dispute Resolution](#) on the court's website.)

**POLICIES IN APPENDICES 3 AND 4 TO THE CURRENT RULES 12 and 13 MAY BE REVISED FROM TIME TO TIME. PLEASE CHECK THE COURT'S WEBSITE FREQUENTLY FOR ADVISORIES OF PROCEDURAL CHANGES AFFECTING THE CMC AND ADR PRACTICES.**

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